



**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/902,692	07/30/97	REA	W 16715CIP

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HM11/0928

<b>EXAMINER</b>
SCHWADRON, R

<b>ART UNIT</b>	<b>PAPER NUMBER</b>
1644	

DATE MAILED: 09/28/98

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**08/902,692**

Applicant(s)  
**Rea et al.**

Examiner  
**Ron Schwadron, Ph.D.**

Group Art Unit  
**1644**



- ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 0 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

- ☒ Claim(s) 1-48 is/are pending in the application.
- Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☒ Claims 1-48 are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- ☐ Notice of References Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

15. Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 1-7,20 are drawn to a method of regulating the abnormal lymphocytic cell cycle of continuously dividing T and B lymphocytes using a cell lysate of normal lymphocyte blood cells, classified in Class 424, subclass 534.

II. Claims 22-31,33-39 are drawn to a method of regulating an abnormal lymphocytic cell cycle of a mammal, classified in Class 424, subclass 520.

III. Claim 32 is drawn to a method of regulating an abnormal lymphocytic cell cycle of a mammal using a T lymphocyte lysate, classified in Class 514, subclass 885.

IV. Claims 40-48,8-19,21 are drawn to a method of treating an individual with abnormal T and B cell parameters with a lymphocyte subset classified in Class 424, subclass 578.

16. The inventions are distinct, each from the other because of the following reasons:

17. Inventions I-IV are different methods. These methods use different process steps and ingredients to achieve different goals. Invention I is drawn to a method of regulating the abnormal lymphocytic cell cycle of continuously dividing T and B lymphocytes using a cell lysate of normal lymphocyte blood cells, while invention II encompasses the regulation of lymphocytes such as NK cells, etc. Invention I uses a cell lysate of normal lymphocyte blood cells, while invention IV uses a lysate prepared from a lymphocyte subset. Invention II encompasses the regulation of lymphocytes such as NK cells, etc., while invention IV is drawn to a method of treating an individual with abnormal T and B cell parameters. Invention III uses a T lymphocyte lysate while invention II uses a lymphocyte lysate. Invention I is drawn to a method of regulating the abnormal lymphocytic cell cycle of continuously dividing T and B lymphocytes, while invention III is method of regulating an abnormal lymphocytic cell cycle (such as an NK cell) of a mammal using a T lymphocyte lysate. Therefore they are novel and unobvious in view of each other and are patentably distinct.

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18. Because these inventions are distinct for the reasons given above and the search required for any group from Groups I-IV is not required for any other group from Groups I-IV and Groups I-IV have acquired a separate status in the art as shown by their different classification and divergent subject matter, restriction for examination purposes as indicated is proper.

19. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

20. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

21. Papers related to this application may be submitted to Group 1600 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). Papers should be faxed to Group 1600 at (703) 305-3014.

22. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Dr. Ron Schwadron whose telephone number is (703) 308-4680. The examiner can normally be reached Tuesday through Friday from 8:30 to 6:00. The examiner can also be reached on alternative Mondays. A message may be left on the examiners voice mail service. Any inquiry of a general nature or relating to the status of this application should be directed to the Group 1600 receptionist whose telephone number is (703) 308-0196.

  
RONALD B. SCHWADRON  
PRIMARY EXAMINER  
GROUP 1600 1600

Ron Schwadron, Ph.D.

Primary Examiner

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September 28, 1998